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IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CARLOS OCTAVIO VLADIMIR SIMO-THEN
INS FILE NO. A 41-421-023

Petitioner,

v.

CHARLES ZEMSKI
DISTRICT DIRECTOR
INS PHILADELPHIA,

IMMIGRATION & NATURALIZATION
SERVICE,

WARDEN, SNYDER COUNTY PRISON

&

JANET RENO, ATTORNEY GENERAL

Respondents.

CIVIL NO. 1:CV-00-1808

(Judge Kane)

FILED
HARRISBURG

DEC 15 2000

MARY E. D'ANDREA, CLERK
Per g/s
DEPUTY CLERK

MOTION FOR DECLARATORY JUDGMENT

Comes now Carlos Octavio Vladimir SIMO-THEN, Petitioner,
and moves this honorable court for a declaratory judgment pursuant
to Rule 57, Fed.R.Civ.P. As grounds thereof petitioner state the
following:

- (1) Petitioner filed a complaint for declaratory and injunctive
relief and petition for writ of habeas corpus before the
court captioned under above case number.
- (2) As basis for the aforesaid action, petitioner, contend
that he is a derivative citizen of the United States,

acquired through his father who is a United States citizen. Thus, the Immigration & Naturalization Service lack jurisdiction over him and his detention is unlawful.

(3) On October 31, 2000, the court ordered the United States Attorney to file a response within 20 days of such order.

(4) The United States have defaulted by failing to file an appropriate response, thereby disregarding the court's order.

WHEREFORE, Carlos Octavio Vladimir SIMO-THEN, petitioner, respectfully request this honorable court, for the reasons stated herein, for a declaratory judgment and all other relief the court deems proper in the premise.

Dated December 12, 2000

Respectfully submitted,

CARLOS O. V. SIMO-THEN
Carlos O.V. SIMO-THEN
Snyder County Prison
600 Old Colony Road
Selinsgrove, PA 17870

(3)
11-1-00
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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

CARLOS OCTAVIO VLADIMIR SIMO-THEN, :

Petitioner :

v. :

CHARLES ZEMSKI, ET AL., :

Respondents :

:
:
:
: CIVIL NO. 1:CV-00-1808
:
: (Judge Kane)
:
:

ORDER

NOW, THIS

31st

DAY OF OCTOBER, 2000, IT IS HEREBY

ORDERED THAT:

1. Petitioner's application to proceed in forma pauperis (Doc. 2) is granted.
2. The Clerk of Court is directed to serve a copy of the above-captioned petition for writ of habeas corpus on Respondents and the United States Attorney.
3. Within twenty (20) days of the date of this order, Respondents shall respond to the allegations in the petition.
4. A determination whether Petitioner should be produced for a hearing will be held in abeyance pending submission of a response.
5. Petitioner shall, if he so desires, file a reply to the response within fifteen (15)

FILED
HARRISBURG

NOV 01 2000

MARY E. DIANDREA, CLERK
Per: [Signature]
DEPUTY CLERK

days of its filing.



YVETTE KANE
United States District Judge

YK:lq

CERTIFICATE OF SERVICE

I, the undersigned certify that I caused to be served a copy of the foregoing motion for declaratory judgment upon the following counsel:

Assistant U.S. Attorney
United States Attorney Office
Middle District of Pennsylvania
228 Walnut Street
Harrisburg, PA 17108

by depositing the same in the U.S. Mail first class postage prepaid.

Executed December 12, 2000

Carlos O. Vladimir Simo-Then
CARLOS O.V. SIMO-THEN